

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARTIN SOUZA,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

Case No. 2:09-cv-02392-GMN-PAL

ORDER

On July 8, 2010, Plaintiff filed an Application to Proceed *In Forma Pauperis* (Dkt. #13), along with a Notice of Appeal (Dkt. #14) concerning the court's Order (Dkt. #11) denying Plaintiff's Motion for Clarification of Amendment I of the Constitution of the United States. The court approved Plaintiff's Application to Proceed *In Forma Pauperis* and entered a payment Order (Dkt. #17) concerning Plaintiff's appeal. The Court of Appeals for the Ninth Circuit dismissed Plaintiff's appeal, finding the court lacked jurisdiction over Plaintiff's Notice of Appeal. *See* Order of USCA, Dkt. #20.

The court finds that Plaintiff also qualifies to proceed *in forma pauperis* before this court. Pursuant to 28 U.S.C. § 1915(b)(1), Plaintiff must pay the \$350.00 filing fee. *Id.* Even if this action is dismissed, the full filing fee must still be paid pursuant to 28 U.S.C. § 1915(b)(2). Plaintiff shall have thirty days from the date this Order is entered in which to have the designated fees sent to the Clerk of Court. Failure to do so may result in dismissal of this action.

An initial partial payment of **\$224.23** is assessed pursuant to Section 1915(b)(1). Upon payment of that initial partial filing fee, Plaintiff will be obligated to make monthly payments of twenty percent of the preceding month's income credited to his trust account. 28 U.S.C. § 1915(b)(2). The agency having custody of Plaintiff shall forward payments from Plaintiff's account to the Clerk of the Court for

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the United States District Court for the District of Nevada each time the amount in the account exceeds \$10.00 until the filing fee is paid.

Accordingly,

IT IS ORDERED:

1. The Clerk of Court shall provide the Plaintiff with two copies of this Order. Plaintiff is ordered to make the necessary arrangements to have one copy of this Order attached to the check in the amount of the designated fee by sending a copy of the Order with an Inmate Money Release form for the amount of the initial installment payment to the Inmate Accounts/Commissary Department of FCI-Victorville. Plaintiff shall have until **November 22, 2010**, in which to make the first payment. Failure to do so may result in a recommendation to the District Judge that the case be dismissed.
2. Pursuant to 28 U.S.C. § 1915, as amended by the Prison Litigation Reform Act of 1995, Plaintiff shall pay to the Clerk of the United States District Court for the District of Nevada an initial payment of \$224.23 for this action within thirty days of the date of this Order. Failure to comply will result in the recommendation of dismissal of this action.
2. Subsequently, Plaintiff shall pay to the Clerk of the United States District Court for the District of Nevada twenty percent of the preceding month's deposits to the prisoner's account (in months that the account exceeds \$10.00) until the full \$350.00 filing fee has been paid for this action.
3. The Clerk shall send a copy of this order to the Accounting Supervisor at FCI-Victorville, PO Box 5300, Adelanto, CA 92301.

Dated this 25th day of October, 2010.



PEGGY A. LEEN
UNITED STATES MAGISTRATE JUDGE